

May 8, 2007

Violet Haller, et. al.
Health & Recovery Services Administration
Division of Medical Management
P.O. Box 45506
Olympia, WA 98504-5506

RE: Violet Haller, et. al. v. Department of Social and Health Services
Allocation Review Request 06ALLO88

Dear Employees:

On November 17, 2006, I conducted a Director's review meeting at the Department of Personnel, 2828 Capitol Boulevard, Olympia, Washington, regarding the allocation of the following Medical Assistance Specialist 3 positions:

Violet Haller	Position #GT10
Norma Keller	Position #QV05
Suzette Leenhouts	Position #SK43
Bob Nelson	Position #SK65
Kenneth Davenport	Position #SK66
Barbara Bleak	Position #TE50
Patricia Smith	Position #TE51
Karon Long	Position #TE52
Melba Lacy	Position #TE56

Present at the Director's review meeting were Violet Haller and Barbara Bleak; Unit Supervisor Darrel Friedt; Classification and Recruitment Manager Pam Pelton and Human Resource Consultant Patty Nutt, representing the Department of Social and Health Services (DSHS).

Background

In August 2005, each of the above employees submitted a Position Review Request (PRR), requesting that their Medical Assistance Specialist (MAS) 3 positions be

reallocated to MAS 4 positions. By letter dated March 29, 2006, (received by the employees on April 14, 2006) Ms. Nutt informed each employee that he/she was properly allocated to the MAS 3 classification. In her review, Ms. Nutt considered each employee's request, as well as Position Description Forms (PDFs) for each employee's position, dated March 2005. Ms. Nutt also conducted interviews with each employee and compared all information to the MAS 3 and 4 classifications. Ms. Nutt concluded the employees were appropriately allocated as MAS 3s because the positions investigate, research, and analyze requests for pharmaceutical authorizations a majority of the time, which she determined was consistent with the MAS 3 class. Ms. Nutt also concluded that there had been no significant changes in the assignment of duties.

On May 12, 2006, the employees filed a collective Director's Review Request (Notice of Appeal) with the Department of Personnel, disagreeing with Ms. Nutt's allocation determination.

Summary of the Employees' Perspective

The employees assert they submitted reallocation requests because they believed they were working beyond the MAS 3 level and wanted to find a best fit for their positions. Based on input from their former supervisors, the employees believe the MAS 4 classification is the appropriate fit. The employees contend they meet the definition of an MAS 4 because they believe they interpret policy and administer the pharmacy authorization program through toll free lines and faxes they handle each day. In their positions, the employees assert they see a lot of deviation from normal practices and, as a result, they state they monitor cases and identify recipients, as well as providers, for over-utilization and regulation. As an example, the employees assert they manage narcotic reviews and manage case sensitive issues regarding DSHS Medicaid clients who may abuse prescription drugs.

In Exhibits C1 – C3, the employees give examples of how they open faxes and use tools set up in their system to respond to requests for pharmaceuticals. Exhibit A also provides an example of the variety of preferred and non-preferred generic and brand name drugs, in this case for anti-depressants, that they manage and work with daily. The employees contend they oversee the list of drugs and compare them to client/patient files to ensure patients do not have medical conditions that will negatively interact with drugs being requested. In order to perform their assigned duties, the employees contend they need to have profound subject-matter knowledge and case management experience and state they often work with doctors and clinical staff when dealing with a request. For example, the employees assert they make authorization determinations and will pend a request to ask a medical provider for justification and will sometimes request a second opinion through a Second Opinion Network (SON). Based on additional information, the employees will either approve the request or pass it on to the Drug Utilization Review Team (DURT) for further review or approval. Exhibit A-4 provides an illustration for the process of work completed by the employees.

The employees assert they also report providers who are fraudulently using the system or creatively billing because the goal is to keep providers honest and not have them over prescribe to patients. Further, the employees contend they send letters to providers and patients to explain how the program works and why patients are denied coverage. The employees assert the work they perform is case management because they set up and monitor files, relying on a rolodex/reference manual, which they assert was created by them to assist staff in handling the multiple and complex drug requests. The employees acknowledge that pharmacy staff will oversee requests for accuracy; however, the employees assert the number of technical calls received requires them to have profound knowledge of medical terminology and pharmaceuticals to perform their jobs. In addition, the employees state they train lower level employees and peers in dealing with difficult situations and cross-train other offices on how to use the toll free lines. Based on the complexity and specialized nature of their positions, the employees believe they should be reallocated to the MAS 4 classification.

Summary of the Department of Social and Health Services' (DSHS's) Reasoning

DSHS acknowledges the employees' dedication and hard work and believes their positions are very essential to the Pharmacy Program. While DSHS agrees that some of the duties performed by the employees fall within the MAS 4 classifications, DSHS contends these positions are unique and on a best fit basis are best described by the MAS 3 classification. DSHS asserts the assigned duties and responsibilities are consistent with the definition and distinguishing characteristics of the MAS 3 classification. For example, DSHS asserts the employees perform duties meeting six of the eight criteria listed in the definition. With respect to the pharmacy program, they determine prior authorization, adjudicate complex claims using multiple systems, interpret and coordinate requests, determine eligibility for receiving medications, and resolve technical problems involving the providers and patients they service. While DSHS agrees the employees educate others in the department about the ongoing processes of the program and perform team building, DSHS contends the employees do not provide formal training or presentations for providers outside of the office, and states they do not analyze the workflow for DURT.

Further, DSHS states the Position Review Request is consistent with the Position Description Form signed by management and asserts the only new item mentioned relates to researching drug criteria to know which standards to apply to a given situation. DSHS contends that information is available to the employees in a rolodex and/or policy manual. DSHS further contends the majority of work performed by the employees has to do with making independent judgments and using the computer as a tool to make those decisions (90%). DSHS, however, asserts that medical consultants make decisions about whether or not to deny a request, not the incumbents in this case. DSHS further contends the employees do not make policy decisions; rather, they follow policies when carrying out their duties. DSHS also points out that the employees do not have the authority to deviate from policy without higher-level approval.

DSHS recognizes that the employees make independent judgments; investigate, research, and analyze deviations from program practices; provide customer service by processing pharmacy drug requests; and provide expert, consultative advice. DSHS also acknowledges the employees need to have some clinical knowledge but asserts it is very technical knowledge, which DSHS asserts is one reason the employees created the rolodex as a tool to assist them through the process. At the same time, DSHS still considers the employees' rolodex a procedural manual or reference tool. On a best fit basis, DSHS asserts the assigned duties are consistent with the MAS 3 classification and believes the employees are appropriately allocated.

Director's Determination

This position review was based on the work performed for at least the six-month period prior to August 2005 when each of you submitted your Position Review Request.

As the Director's designee, I carefully considered all of the documentation in the file, including the Director's review request dated May 12, 2006, the exhibits presented during the Director's review meeting, and the verbal comments provided by both parties. Based on my review and analysis of each employee's assigned duties and responsibilities, I conclude the positions referenced in this request are properly allocated to the Medical Assistance Specialist 3 classification.

Rationale for Determination

The Position Review Requests (PRRs) (Exhibit 1) and the Position Description Forms (PDFs) (Exhibit 2) are very similar. Both documents describe the positions as specialists within the Pharmacy Program Section working with the Health and Recovery Services Administration (HRSA), formerly known as the Medical Assistance Administration (MAA). The primary scope of the work involves processing pharmaceutical requests for Medicaid clients. The PDFs describe the following scope of work, which is also included in the majority of job duties (75% - 90%) described on the PRRs:

- Under supervision, performs case management on each request from pharmacies for pharmaceuticals, through the evaluation of appropriateness, reviews for deviations from established medical standards/policies, medical contradictions, medical necessity, evaluation of medical necessity to pend and initiate written requests to prescribing physician for additional medical justification, which can also include requesting second opinions and double blind studies.
- After receiving additional information from the prescribing physician, approves the request for processing or makes a recommendation for denial to the interdisciplinary pharmacy review team (Drug Utilization Review Team or DURT) and completes the resolution of the pharmaceutical (drug) request.

- Adjudicates written (received by fax) and telephone requests for authorization for medical pharmacy services based on criteria developed by professional staff in accordance with state and federal laws and departmental policies.
- Actively participates in DURT, which includes HRSA medical and pharmacy consultants, Nursing Care Advisor, and DURT MAS 3s who review policies and recommend changes/additions.
- Identifies current prescribing and client/prescriber specific drug utilization trends.
- Identifies educational information to be added to HRSA electronic bulletin board.
- Reviews and resolves complex/complicated requests; screens request for compliance with required documentation/justification and criteria and refers more complex problems to pharmacy research specialists.
- Utilizes both the Medicaid Management Information System (MMIS) and the Point of Sale (POS) data system to access eligibility of clients to determine accuracy of MMIS/POS drug files.

Additionally, the PDFs note that incumbents in these positions are required to have a thorough knowledge and expertise in the use of MMIS, the continually updated and revised drug formulary, and Comparisons/Physicians Desk Reference/Blue Book and Red Book, and understand state and federal laws and departmental policies. The PRRs further indicate positions spend 5 – 10% of the work time analyzing, researching, and resolving POS processing problems relating to pharmacy services that have been provided, applying knowledge of all Medicaid system functions and interactions. Ms. Haller's PRR indicates she also spends 20% of her work time serving as a Synagis coordinator during the Respiratory Syncytial Virus (RSV) season, reviewing cases for completion and then submitting them to HRSA medical consultants for approval or denial (Exhibit 1, page 2).

In the first section of job duties on the PRR (identified as 75% - 90%), the employees also state they act as a liaison, coordinating between medical providers, pharmacies, and DURT and state they coordinate and identify cases deviating from described norms of practice to DURT. The employees also point out the need to understand medical terminology and HRSA pharmacy billing instructions. In addition to considering the PDFs and the PRRs, I reviewed the audit notes prepared by Ms. Nutt after interviewing each employee.

In the audit notes (Exhibit 3), the description of work, consistent with the positions' scope of work identified on the PDF, indicates the major job focus entails reviewing,

approving/denying requests for prescription drugs. In that process, the employees receive a request via phone or fax, review the request by applying specific criteria and using their independent knowledge of drug/medical information and terminology, laws, policies, and procedures, and also using reference tools such as the rolodex, which they helped create. If an authorization cannot be made, the employees fax the request to the prescriber for justification. If the request still cannot be approved after receiving additional information, the employees pend the request and send it to DURT for further review. An example of this is included in the process for handling antidepressant medications (Exhibit A, Cheat Sheet).

During the Director's review meeting, Mr. Friedt clarified that all denied requests are made by medical consultants, not the incumbents, though they may provide recommendations and point out deviations from normal practices. This is also affirmed in a December 27, 2005 memorandum to the Department of Personnel from Jeffery Thompson, MD, Director of the Division of Medical Management and Deputy Director Edwina Dorsey, RN, in which they wrote, "MAS-3 staff uses a 'rolodex' (same as a desk manual) to make approval decisions only. All denied requests are made by the medical consultants." This is also confirmed in the authorization instructions for narcotic medications (Exhibit A3).

Further, the level of decision-making for these positions, as described in the audit notes (Exhibit 3), explain that the positions approve/deny requests "per established criteria" and that "[q]uestionable requests are pended or sent to pharmacists for decision making." When a request cannot be approved, the incumbents in the positions also work with DURT or refer suspicious activity to a Fraud Unit. Similarly, the employees Director's review request letter (Exhibit 8) notes, "[a]fter a front line decision is made by the MAS 3 this information is then forwarded to the HRSA Review Team for ongoing instructions for future PA requests related to this patient," which will either allow future utilization or require continued monitoring of the patient. Client files requiring prior authorization are identified with a standard code, as noted in the Directions for Narcotic Review document (Exhibit A3).

Comparison of duties to the MAS 3 classification:

The MAS 3 classification states that positions provide expert consultative services to providers, clients, and/or other external customers and meet one of the following criteria:

- 1) Determines prior authorization or medical services;
- 2) Adjudicates complex claims utilizing multiple systems and/or contracts;
- 3) Coordinates benefits;
- 4) Interprets, coordinates and/or services complex medical accounts . . . ;
- 5) Determines initial and/or ongoing medical eligibility . . . ;
- 6) Resolves technical problems involving clients, agencies, carriers, and/or providers;
- 7) Trains newly hired entry level internal staff;

8) Supervises a unit of Medical Assistance Specialists 1s and/or 2s.

The employees in these positions primarily provide customer service by processing pharmacy drug requests for Medicaid clients. As such, they deal with pharmacy staff and physicians with respect to the Pharmacy Program within HRSA and provide "expert consultative services" about program procedures and policies. When comparing the assigned duties to the above criteria, the employees' duties are best described by numbers one and two because they determine prior authorization and adjudicate requests for medical pharmacy services prescribed to Medicaid clients, which they receive via telephone or in writing (fax) as indicated on the PDFs. Although the other criteria is not specific to the MAS 3s working in Pharmacy Authorization, the incumbents similarly interpret the requests they receive, make initial determinations about eligibility/authorization within established criteria, and they resolve technical issues they may encounter with MMIS or POS.

The distinguishing characteristics at the MAS 3 level note, in part, that positions investigate, research, and analyze duties involved in resolving problems including payments to providers, eligibility, and authorizations a majority of time. Further, these positions are distinguished from the MAS 2 by their independence of action, limited supervisory direction, and broad discretion to perform the full range of technical and professional duties.

Again, the incumbents research and analyze drug information, using the rolodex or other reference material and work within the MMIS or POS systems. They also work independently and use discretion while performing their technical and professional duties, which in this case includes technical, clinical knowledge about medical procedures/terminology and prescription drugs.

During the audit with Ms. Nutt, the employees were asked to identify what duties had changed in their positions. The primary responses included changes in criteria related to drug classes and/or programs like the narcotic review program, as well as an increase in work and the enormous amount of specialized knowledge acquired about various medications. In the Director's review request letter (Exhibit 8), the employees assert that 40% of their work day is spent identifying provider or recipient over-utilization of drugs. Although it has been established that the employees report questionable requests to DURT or narcotics review or perhaps a fraud unit, the majority of work indicated on the PRRs (in most cases 90%, with the exception of Ms. Haller at 75%) involves the whole gamut of processing the pharmacy requests. This includes sending the information back to providers for clarification/justification if it does not meet the criteria, applying rules, policies, and procedures, using the reference material, and then ultimately forwarding information to DURT for guidance when requests fail to meet the standards.

Comparison of duties to the MAS 4 classification:

The MAS 4 definition states, “[s]erves as a designated lead worker over lower level staff which must include a technical MAS 3; or provides formal provider training to ensure uniform application of program policy; or interprets policy/regulations, analyzes workflow and revised procedures and monitors ongoing systems operations in the broader aspects of Medicaid Management Information System (MMIS) related activities.

The organization chart (Exhibit 5) shows that all of the employees report to an MAS 5 and that most of the employees within the two related sections are at the MAS 3 level. While the employees work as a team and may provide guidance to one another and/or train lower level staff, none of the employees has been designated as lead worker. Further, there is no indication the employees provide outside training to providers. In the Director's review request, the employees assert they meet the MAS 4 definition based on interpretation of policy and regulations. However, at the MAS 4 level, the interpretation of policy relates to analyzing workflow, revising procedures, and monitoring system operations, which the employees are not assigned to do.

I recognize the employees are very knowledgeable about pertinent policies and procedures, and I agree that it takes a highly skilled person to perform the duties of these positions. It is evident the employees are valuable assets to the Pharmacy Program and carry a wealth of knowledge about clinical procedures, medical conditions, medical terminology, and all the nuances related to a wide variety of generic and brand name drugs. However, their level of knowledge, expertise, and independent judgment is consistent with the expertise required at the MAS 3 level. Although new drug criteria may be established and procedures updated, the core nature of how the incumbents in these positions perform the work has not significantly changed. The criteria used to allocate a position can be outlined as follows:

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Based on the overall duties and responsibilities assigned, the Medical Assistance Specialist 3 classification best describes the employees' positions, which include the following positions #: GT10; QV05; SK43; SK65; SK66; TE50; TE51; TE52; and TE56.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board (board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Teresa Parsons
Director's Review Supervisor
Legal Affairs Division

c: Pam Pelton, DSHS
Lisa Skriletz, DOP

Enclosure: List of Exhibits